

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	Civil Action No. 1:12-cv-02887-GLR
v.)	
)	
UNIVERSITY OF MARYLAND)	
FACULTY PHYSICIANS, INC.,)	
)	
)	
Defendant.)	
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CONSENT DECREE

This action was instituted by Plaintiff, the Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendant, University of Maryland Faculty Physicians, Inc. ("FPI" or "Defendant"), alleging that Defendant violated Sections 102(a) and (b) of Title I of the Americans with Disabilities Act as amended through the ADA Amendments Act of 2008 ("ADAAA"), 42 U.S.C. § 12112(a) and (b), by failing to reasonably accommodate Charging Party Doneen King and by terminating her because of her disability. Defendant denies the allegations in the Complaint.

The parties desire to resolve this action without the time and expense of continued litigation, and they desire to formulate a plan, to be embodied in a Decree, which will promote and effectuate the purposes of the ADAAA.

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and the ADAAA. Therefore, upon due

consideration of the pleadings and the record as a whole, it is ORDERED, ADJUDGED AND DECREED:

Scope of Decree

1. This Decree resolves all issues and claims in the Complaint filed by the Commission in this ADAAA action, which emanate from the Charge of Discrimination filed by Doneen King. This Decree in no way affects the Commission's right to process any other pending or future charges that may be filed against Defendant and to commence civil actions on any such pending or future charges as the Commission sees fit.
2. This Decree shall be in effect for a period of three years from the date it is entered by the Court. During that time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate the purposes of the Decree.
3. This Decree, being entered with the consent of Plaintiff and Defendant, shall not constitute an adjudication or finding on the merits of the case.

Relief to Doneen King

4. Within fifteen business days of entry of this Decree, Defendant shall pay Doneen King monetary relief in the total amount of \$92,500.00, representing \$55,000.00 in back pay and \$37,500.00 in non-pecuniary compensatory damages. Defendant will issue Ms. King an IRS Form 1099 for the 2013 tax year for the compensatory damages amount and an IRS W-2 form for the 2013 tax year for the back pay amount. The Defendant shall make all legally required withholdings from the back pay amount. The check and IRS forms will be sent directly to Ms. King with copies to the EEOC.

5. Defendant shall provide Ms. King, within ten days of the entry of this Decree, with a neutral letter of reference, on FPI letterhead, and signed by the Human Resources Director of FPI, setting forth, at a minimum, the following: Ms. King's dates of employment, position, and work location. If Defendant receives an inquiry about Ms. King from a potential employer, headhunter, or other person inquiring about Ms. King's employment history, Defendant shall provide a neutral reference concerning Ms. King, indicating, at a minimum, the following: Ms. King's dates of employment, position, and work location.

Injunctive Relief

6. Defendant, its officers, agents, employees and all other persons acting or claiming to act on its behalf and interest are enjoined from denying reasonable accommodations to qualified individuals with disabilities and violating the provisions of Title I of the ADAAA, and related regulations, including the following provisions:

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to . . . discharge of employees . . . and other terms, conditions, and privileges of employment.

42 U.S.C. § 12112(a).

"[T]he term 'discriminate against a qualified individual on the basis of disability' includes . . . not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability"

42 U.S.C. § 12112(b)(5).

Written Policies & Procedures

7. Within sixty days from the entry of this Decree, Defendant will implement and disseminate to all employees and new hires a revised Lateness and Absenteeism from Work Policy. The revised policy will include a procedure for invoking a request for a reasonable accommodation under the ADAAA and will state that Defendant will make exceptions to the

policy when required by the ADAAA as a reasonable accommodation for employees with disabilities. Defendant will also revise related employee policies to reflect the revisions in the Lateness and Absenteeism from Work Policy.

ADA Training

8. Within five months from the entry of this Decree, Defendant shall provide at least two hours of live training on the ADAAA for all supervisory and managerial employees and all human resources personnel. The training will cover all areas of prohibited ADAAA employment discrimination, but will include special emphasis on reasonable accommodation and the duty to engage in an interactive process. The training will also specifically address the provision of unpaid leave as a reasonable accommodation and exceptions to Defendant's Leave and Absenteeism from Work Policy discussed in paragraph 7 above. Defendant shall also incorporate one hour of live training on the ADAAA in its monthly new supervisor training. In years two and three of the Decree, Defendant shall provide one hour of live training and one hour of computer-based training with a quiz for all supervisory and managerial employees and human resources personnel. All live training shall be conducted by a qualified individual with experience with laws prohibiting employment discrimination.

9. Within ten business days of completing its two hour live training as discussed in paragraph 8 above, Defendant will provide the EEOC with written documentation that the training occurred, including the date the training was completed, and a signed attendance list identifying the name and job title for all attendees. In years two and three of the Decree, Defendant will provide the written documentation that the training occurred, including the signed attendance list, with its next due semi-annual report.

10. During orientation, new employees shall be informed of FPI's policies regarding the ADAAA and reasonable accommodation.

Notice and Postings

11. Within fifteen business days of entry of this Decree, Defendant will post and cause to remain posted the posters required to be displayed in the workplace by Commission Regulations, 29 C.F.R. § 1601.30, in all places where notices to employees customarily are posted in all FPI practices and administrative offices.

12. Within fifteen business days of entry of this Decree, Defendant will post in all places where notices to employees customarily are posted in all FPI practices and administrative offices the Notice attached hereto as Exhibit A ("Notice to Employees"). This Exhibit shall be posted and maintained for the duration of the Decree and shall be signed by a representative of Defendant with the date of actual posting shown. Should the Exhibit become defaced, marred, or otherwise made unreadable, Defendant will ensure that new readable copies of the Exhibit are posted in the same manner as specified above. Within ten days of posting the Notice, Defendant shall forward to the Commission's Baltimore Field Office a copy of the signed Notice and written certification that the Notice has been posted and a statement of the location(s) and date of posting.

Monitoring Provisions

13. On a semi-annual basis, Defendant will prepare and submit to the Commission a list of all individuals who have been denied the reasonable accommodation of leave sought under the ADAAA during that period. The list will include each individual's name; home address; home telephone number; a brief description of the accommodation requested; the reasons for the denial; and the name of each manager or supervisor involved in the relevant job action decision.

If no individuals have been denied an accommodation sought under the ADAAA, Defendant will so inform the Commission's Baltimore Field Office.

14. On a semi-annual basis, Defendant will prepare and submit to the Commission a list of all individuals who have complained (internally or externally) of or reported termination on the basis of disability during that period. This list will include each individual's name; home address; home telephone number; the nature of the individual's complaint; the name of the individual who received the complaint or report; the date the complaint or report was received; and a description of Defendant's actions taken in response to the complaint or report, including the name of each manager or supervisor involved in those actions. If no individuals have complained of or reported any discrimination in employment on the basis of disability during that quarter, Defendant will so inform the Commission's Baltimore Field Office.

15. All materials required by this Decree to be sent to the EEOC shall be addressed to: Tanya L. Goldman, Trial Attorney, Equal Employment Opportunity Commission, Baltimore Field Office. The materials shall be sent by electronic mail to tanya.goldman@eeoc.gov.

16. The Commission and Defendant shall bear their own costs and attorneys' fees.

17. The undersigned counsel of record in the above-captioned action hereby consent, on behalf of their respective clients, to the entry of the foregoing Consent Decree.

Respectfully submitted,

FOR DEFENDANT:

/s/
Kathleen A. Talty
(with permission)
KRUCHKO & FRIES
502 Washington Avenue, Suite 400
Baltimore, MD 21204
Phone: (410) 321-7310
Fax: (410) 821-7918
E-mail: ktalty@kruchkoandfries.com

FOR PLAINTIFF:

/s/
Debra M. Lawrence
Regional Attorney

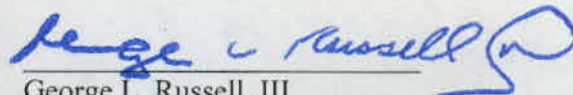
/s/
Maria Salacuse (Bar No. 15562)
Supervisory Trial Attorney

/s/
Tanya L. Goldman
Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Baltimore Field Office
10 S. Howard Street, 3rd Floor
Baltimore, Maryland 21201
Phone: (410) 209-2728 (phone)
Fax: (410) 209-2221 (fax)
E-mail: tanya.goldman@eeoc.gov

SO ORDERED.

Signed and entered this 14th day of February, 2013.


George L. Russell, III
United States District Judge



NOTICE TO EMPLOYEES POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE EEOC AND UNIVERSITY OF MARYLAND FACULTY PHYSICIANS, INC.

University of Maryland Faculty Physicians, Inc. (FPI) is fully committed to maintaining a workplace in which all applicants and employees are free from illegal discrimination, including discrimination based on disability. This commitment is recognized by FPI's policies and required by federal law. The Americans with Disabilities Act, as amended by the Americans with Disabilities Act of 2008 (ADAAA) makes it unlawful for an employer to discriminate against any qualified individual because of a disability.

Under the ADAAA, the term "discriminate" includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability.

The term "reasonable accommodation" may include: granting employees reasonable amounts of unpaid medical leave; making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and other similar accommodations.

In accordance with the applicable law: FPI will not engage in any acts or practices made unlawful by the ADAAA.

Employees or job applicants should report instances of discriminatory treatment to a supervisor, manager, or human resources [410-328-8309]. FPI has established policies and procedures to promptly investigate any such reports and to protect the person making reports from retaliation.

Individuals may also make complaints of employment discrimination directly to the EEOC's Baltimore Field Office at 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201 or by calling 1-800-669-4000/ TTY (410) 962-6065. General information may also be obtained on the Internet at www.eeoc.gov.

William E. Tucker, COO
University of Maryland Faculty Physicians,
Inc.

Date Posted: